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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,225	02/05/2001	Robert B. Havekost	06005/35530	1536

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EXAMINER

MCCARTHY, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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2184

DATE MAILED: 11/04/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/777,225

Applicant(s)

HAVEKOST ET AL.

Examiner

Christopher S. McCarthy

Art Unit

2184

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-28 is/are allowed.
- 6) ☒ Claim(s) 29 and 33-35, 37, 40-41 is/are rejected.
- 7) ☒ Claim(s) 9,30-32,36,38,39,42 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Inventorship***

1. In view of the papers filed 1/9/2002, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding inventor by name of Michael G. Ott to list of inventors.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

### ***Claim Objections***

2. Claim 9 is objected to because of the following informalities: Grammatical error in claim cites "a failure code base", wherein the examiner suggests this should read as "based". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 29, 33-35, 37, 40-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Konar U.S. Patent 6,535,769.

As per claim 29, Kolnar teaches a device that manages failures for use in a process control system having a unit module and a plurality of control modules communicatively coupled to the unit module that carry out a process (column 1, lines 43-56), the device comprising: a controller having a memory (column 1, lines 57-65) and a processor communicatively coupled to the memory (column 1, lines 43-56, wherein the processor is inherent in the coupled computer), wherein the controller is programmed to use composite failure codes to determine whether the process should be stopped (column 6, lines 32-36).

As per claim 33, Kolnar teaches a process control system for carrying out a process, the process control system comprising: a plurality of field devices (column 3, lines 14-23); a controller communicatively coupled to the plurality of field devices and including a unit module that carries out at least a portion of the process (column 1, lines 57-65), wherein the unit module causes the controller to process a group of composite failure codes to determine whether the process should be stopped (column 6, lines 32-36).

As per claim 34, Kolnar teaches the process control system of claim 33, wherein the group of composite failure codes is generated by a plurality of control modules (column 4, lines 46-53).

As per claim 35, Kolnar teaches the process control system of claim 34, wherein the plurality of control modules are instantiated within the plurality of field devices (column 4, lines 4-53).

As per claim 37, Kolnar teaches the process control system of claim 34, wherein each of the control modules uses a list of failures to generate its respective composite failure code (column 4, line 58 – column 5, line 4).

As per claim 40, Kolnar teaches the process control system of claim 33, wherein the unit module causes the controller to select the group of the composite failure codes based on a current phase of the process (column 2, lines 24-52).

As per claim 41, Kolnar teaches the process control system of claim 33, wherein each of the control modules automatically sends its respective composite failure code to the controller (column 4, lines 17-22).

#### ***Allowable Subject Matter***

5. Claims 1-28 are allowed.
6. Claims 30-32, 36, 38-39, 42-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Reasons for Allowance***

7. The following is an examiner's statement of reasons for allowance: When read as a whole, claims 1, 14, 18 are allowable with respect to the following limitation:

As per claims 1, 14, 18, the primary reason for allowance is the limitation of generating a composite failure code within each of the control modules based on the failure information within each control module.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent 4,633,467 to Abel et al.

U.S. Patent 5,161,110 to Dorchek

U.S. Patent 6,314,328 to Powell

U.S. Patent 4,380,067 to Beardsley et al.

U.S. Patent 6,203,183 to Mordaunt et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. McCarthy whose telephone number is (703)305-7599. The examiner can normally be reached on M-F, 8 - 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoleil can be reached on (703)305-9713. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

csn  
October 27, 2003

  
ROBERT BEAUSOLIEL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100